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RYAN SIMPSON

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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ARIEL MARISCAL, a minor,  
by and through his mother  
and guardian, IRMA MARISCAL,

Plaintiff,

vs.

RYAN SIMPSON, in his individual  
and official capacity, and the  
CITY OF SPARKS,

Defendants.

Case No. 3:08-cv-00162 BES-RAM

**STIPULATED CONFIDENTIALITY**  
**AGREEMENT AND PROTECTIVE**  
**ORDER**

STATE OF NEVADA )  
COUNTY OF WASHOE ) ss.

Jeffrey S. Blanck ("Plaintiff's Counsel"), individually and as legal counsel for Plaintiff Ariel Mariscal, a minor, by and through his mother and guardian Irma Mariscal, (hereafter referred to as "Mariscal"), and Defendant Ryan Simpson, (hereafter referred to as "Simpson"), by and through his counsel of record, Lemons, Grundy & Eisenberg ("Simpson's Counsel"), hereby enter into the following STIPULATED CONFIDENTIALITY AGREEMENT AND PROTECTIVE ORDER:

WHEREAS, Mariscal has filed the above styled and numbered suit against Simpson and City of Sparks; and

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1 WHEREAS, documents and other tangible and intangible information which may be  
2 relevant to the subject lawsuit pertain to an active law enforcement officer (Simpson) and are  
3 thereby confidential and may be subject to privileges from discovery; and

4 WHEREAS, documents and other tangible information which may be relevant to this  
5 lawsuit pertain to sensitive educational and medical information regarding Ariel Mariscal, a  
6 minor; and

7 WHEREAS, the parties and their counsel desire to expedite and facilitate the discovery  
8 process in this litigation while protecting the interests of both parties; and

9 WHEREAS, all counsel agree that the easiest and most economical way to accomplish  
10 this goal is through the execution of a Stipulated Confidentiality Agreement and Protective  
11 Order;

12 **THEREFORE, SUBJECT TO THE APPROVAL OF THIS COURT,** the parties  
13 hereby stipulate as follows:

14 1. Documents and information that will be produced by Mariscal and Simpson  
15 pursuant to this STIPULATED CONFIDENTIALITY AGREEMENT AND PROTECTIVE  
16 ORDER are claimed to be of a confidential nature. The purpose of this Confidentiality  
17 Agreement and Protective Order is to protect the confidentiality of these documents in the  
18 interest of the parties' privacy and Simpson's safety due to his status as an active law  
19 enforcement officer.

20 2. Confidential documents and information produced in this case shall be protected  
21 from inappropriate and/or inadvertent disclosure in accordance with the following terms and  
22 conditions:

23 a. Simpson may, in good faith, designate documents or discovery  
24 information as "CONFIDENTIAL" including by way of example, but not  
25 limited to records pertaining to internal affairs investigations, records  
26 which identify Simpson's residential information and/or information that  
27 identifies his family members, his health information and similar private  
28 and confidential information.

- b. Plaintiff may, in good faith, designate documents or discovery information as "CONFIDENTIAL" including by way of example, but not limited to records pertaining to plaintiff's 's medical, psychological and school records.
- c. All documents produced in this case and designated "CONFIDENTIAL" shall be used solely for the purpose of "this action" and shall not be made available to persons other than "qualified persons" as defined in Paragraph 3. "This action" specifically refers to the pretrial proceedings and trial or settlement of the above-entitled cause of action, and no other.
- d. "Confidential" documents, information and other discovery materials shall include all originals and copies of any document and/or information that have been designated as such by stamping the cover or other page or by stamping a blank sheet affixed to the cover or other page with the words "CONFIDENTIAL" or in any other reasonable manner appropriate to the form in which the confidential information is made available to the qualified persons as defined in Paragraph 3. In lieu of stamping the originals of documents, the parties may stamp copies that are produced or exchanged, or indicate in some appropriate fashion that the documents are confidential under this Confidentiality Agreement and Protective Order. Notwithstanding the foregoing, documents or other discovery materials produced and not so designated through mistake, or inadvertence, or for any other reasons shall likewise be deemed confidential.

3. "Qualified persons" means:

- a. A party to this action, an officer, director, employee or partner or a party of counsel having direct responsibility for, working directly on, or testifying in connection with this action who has executed a declaration in the form attached hereto as **Exhibit "A"** and/or
- b. Counsel of record for the parties and the legal assistants and regularly-employed office staff of counsel of record for the parties; and/or

- 1 c. A person retained by a party or its attorneys of record to assist in this  
2 action, such as independent accountants, expert witnesses, statisticians,  
3 economists, consultants or other technical experts and/or consultants, who  
4 have signed a declaration in the form of **Exhibit "A"** hereto, which signed  
5 declaration shall be retained by such party or its attorneys; and/or  
6 d. Court officials involved in these actions, including the court and its staff,  
7 court reporters, persons operating video recording equipment at  
8 depositions, and any person appointed by the court; and/or  
9 e. Actual or potential deposition witnesses in this action who are assisting  
10 counsel in the prosecution or defense of this action or whom counsel must  
11 advise concerning the status of this action who has executed a declaration  
12 in the form attached hereto as **Exhibit "A."**

13 The parties expressly agree that the confidential information as identified in Paragraph 2,  
14 above, will be maintained in a location to prevent inadvertent disclosure to anyone not deemed  
15 to be a "qualified person" as identified in paragraph 3, above.

16 4. In the event that a "qualified person" ceases to engage in the preparation for trial  
17 or trial of this proceeding, access by such person to confidential documents and other discovery  
18 materials shall be terminated; however, the provisions of this Confidential Agreement and  
19 Protective Order shall remain in full force and effect as to all persons who have obtained access  
20 to such documents or other discovery materials of plaintiff or Simpson designated for protection  
21 hereunder in perpetuity.

22 5. Counsel for the parties shall maintain a list of the names of all persons, including  
23 all experts, expected to testify at trial, who inspect or view confidential documents and other  
24 discovery information or who receive any copies of such confidential documents or discovery  
25 information and shall make such a list available to each other at the conclusion of this litigation.

26 6. Nothing contained herein shall prevent disclosure beyond the terms of this  
27 Confidentiality Agreement and Protective Order if the parties consent in writing to such  
28 disclosure; or if the court, after notice to all affected persons, allows such disclosure; or if the

1 party to whom confidential information has been produced thereafter becomes obligated to  
2 disclose the information in response to a lawful subpoena, PROVIDED THAT the subpoenaed  
3 party gives prompt written notice to counsel for the parties and permits said counsel sufficient  
4 time to intervene and seek appropriate relief in the action in which the subpoena was issued.

5 7. If any party submits and/or files with the court any document or other discovery  
6 information covered by this Confidentiality Agreement and Protective Order, efforts will first  
7 be made to obtain leave of court to file such document under seal. To that end, no party shall  
8 file or submit for filing as part of the court record any document under seal without first  
9 obtaining leave of court. Notwithstanding the agreement between the parties hereto, the party  
10 seeking to file a paper under seal bears the burden of overcoming the presumption in favor of  
11 public access to papers filed in court. If leave of court to file under seal is granted, the party  
12 filing any motion, brief or other paper containing or otherwise exhibiting any confidential  
13 information will be filed in sealed envelopes or other appropriate sealed containers, as permitted  
14 by the court's rules, bearing the words "CONFIDENTIAL" or "FILED UNDER SEAL."

15 8. Any person to whom delivery, exhibition, or disclosure of any confidential  
16 documents or confidential information described herein is made shall be subject to this order.

17 9. In the event that any confidential material is inadvertently used, it shall not lose  
18 its confidential status through such use, and the parties shall take all steps reasonably required  
19 to protect its confidentiality during and after its use. Any waiver of the terms of this order must  
20 be in writing.

21 10. When not in use as permitted by the provisions of this order, the documents  
22 designated herein shall be kept in a safe place at the offices of each parties' attorneys of record.

23 11. Within sixty (60) days after the final judgment in or settlement of this action, each  
24 party shall assemble all originals or reproductions, summaries, notes, whether handwritten or  
25 printed electronically of any documents or other discovery information stamped  
26 "CONFIDENTIAL" produced by the parties (excluding any documents that have been filed with  
27 the Court), shall be returned to opposing counsel. Insofar as the provisions of this  
28 Confidentiality Agreement and Protective Order restrict the use of the documents or other

1 discovery materials produced hereunder, such Confidentiality Agreement and Protective Order  
2 shall continue to be binding after the conclusion of this case.

3 12. Nothing in this Stipulated Confidentiality Agreement and Protective Order, nor  
4 any action taken in compliance with it, shall:

5 a. Operate as an admission by either party that any particular document, or  
6 discovery material, deposition transcript, or discovery response is or is not  
7 confidential; or

8 b. Prejudice in any way the right of any party to seek a determination by the  
9 Court whether particular documents or other information should or should  
10 not be disclosed or if disclosed whether it should remain subject to the  
11 terms of this Confidentiality Agreement and Protective Order.

12 13. Nothing in this Confidentiality Agreement and Protective Order shall be deemed  
13 to impair a party's right to object to the production of documents or information on any ground,  
14 or to assert that the documents or information sought are privileged or otherwise protected from  
15 disclosure or to demand more stringent restrictions for the treatment or disclosure of any  
16 documents or discovery information on any ground that may be warranted by the circumstances  
17 of a particular document request.

18 14. Nothing in this Confidentiality Agreement and Protective Order shall bar or  
19 otherwise restrict any attorney herein from rendering advice to his client with respect to this  
20 case.

21 15. The parties and their attorneys, and any "qualified persons" who receive  
22 confidential information subject to this Confidentiality Agreement and Protective Order, who  
23 intentionally, knowingly, or otherwise violate the terms of this Confidentiality Agreement and  
24 Protective Order shall be jointly and severally liable for all damages arising therefrom and said  
25 party may pursue any and all civil remedies available to it for breach of the terms of this  
26 Confidentiality Agreement and Protective Order.

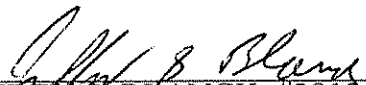
27 16. This Confidentiality Agreement and Protective Order may be modified by written  
28 stipulation among all parties, approved by the Court or by application by noticed motion.

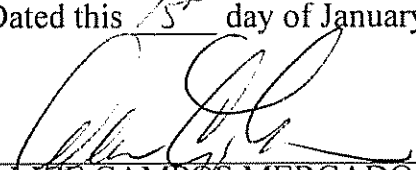
1 17. Nothing in this Confidentiality Agreement and Protective Order shall be construed  
2 as a waiver of any rights by any party with respect to matters not specifically provided for  
3 herein. This Confidentiality Agreement and Protective Order shall be applicable to documents  
4 and discovery materials produced.

5 18. The parties agree that, for purposes of laying an evidentiary foundation for  
6 authentication only, that the records are deemed properly authenticated unless, for good cause  
7 shown, any party applies to the court for an order with a good faith factual basis to contest the  
8 authenticity of any particular document or documents. Further, this stipulation shall not be  
9 construed as a waiver of any other objection to such document, including, but not limited to,  
10 relevance, hearsay, cumulativeness or undue prejudice.

11 Dated this 15 day of January, 2009.

Dated this 15<sup>th</sup> day of January, 2009.

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13   
14 JEFFREY S. BLANCK, #3913  
15 485 West Fifth Street  
16 Reno, NV 89503  
17 **Attorney for Plaintiff**

18   
19 ALICE CAMPOS MERCADO, #4555  
20 Lemons, Grundy & Eisenberg  
21 6005 Plumas Street, Suite 300  
22 Reno, NV 89519  
23 **Attorney for Defendant Ryan Simpson**

24 **ORDER**

25 IT IS SO ORDERED.

26 DATED this 16th day of January, 2009.

27   
28 **U.S. MAGISTRATE JUDGE**

# Exhibit A

Exhibit A

Exhibit A

**ACKNOWLEDGMENT AND AGREEMENT TO**  
**ABIDE BY CONFIDENTIALITY AND PROTECTIVE ORDER**

THE UNDERSIGNED HEREBY UNDERSTANDS AND ACKNOWLEDGES that he/she has read the STIPULATED CONFIDENTIALITY AGREEMENT AND PROTECTIVE ORDER signed by Jeffrey S. Blanck, Alice Campos Mercado of Lemons, Grundy & Eisenberg, counsel of record for Ryan Simpson, on the \_\_\_\_ day of \_\_\_\_\_, 2009.

The undersigned agrees to be bound by the terms of the above-mentioned CONFIDENTIALITY AGREEMENT and this Protective Order in the same manner as the parties and their respective attorneys of record, are bound. The undersigned agrees to provide counsel for the parties with written notice of any document sharing as well as a list of any recipients of shared documents. The undersigned also agrees, as provided in the STIPULATED CONFIDENTIALITY AGREEMENT AND PROTECTIVE ORDER, to submit to the jurisdiction of the United States District Court for the District of Nevada and/or the Second Judicial District Court in and for the County of Washoe, State of Nevada for any proceedings related to any violation or threatened violation of this Order.

\_\_\_\_\_  
Dated: \_\_\_\_\_

SUBSCRIBED and SWORN to before  
me this \_\_\_\_ day of \_\_\_\_\_ 2009.

\_\_\_\_\_  
NOTARY PUBLIC